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OFFICE OF PETITIONS

In re Application of	:
Ellenberg, et al.	:
Application No. 09/624,439	: DECISION ON PETITION
Filed: 24 July, 2000	:
Attorney Docket No.: 3951-4001	:

This is a decision on the petition filed on 27 January, 2005, under 37 C.F.R. §1.47(a).

The petition is **DISMISSED**.

NOTES:

- (1) For the reasons discussed below, it is unlikely that Petitioner will wish to renew this petition, however, should Petitioner wish to do so, any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(a)."
- (2) There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 24 July, 2000, and included on filing a fully executed oath/declaration;

- in response to non-final rejections mailed, respectively, on 19 March and 23 September, 2004, Petitioner has sought to submit a declaration pursuant to 37 C.F.R. §1.131, however, the Examiner has objected to the declaration in that only one co-inventor has signed the document;
- in an effort to have the declaration pursuant to 37 C.F.R. §1.131 entered, Petitioner found that a named co-inventor, Josh Nabozny (Mr. Nabozny) is no longer in the employ of the assignee and Petitioner filed, *inter alia*, his statement as to efforts made to locate and obtain a signed §1.131 declaration of Mr. Nabozny analogizing his efforts to and using the procedures of 37 C.F.R. §1.47 (NOTE: a preliminary internet search from the Office has located a new address and telephone number for a "J. Nabozny," and Petitioner obviously will wish to follow at least briefly this line of inquiry).

The regulations at 37 C.F.R. §1.47 are not to be used for this purpose.

Rather, Petitioner's remedy is to seek a waiver under 37 C.F.R. §1.183 of the requirements for all (both) inventors to sign the declaration under 37 C.F.R. §1.131.

CONCLUSION

Therefore, the instant petition hereby is **dismissed**. Because the petition was not necessitated by an error of the Office, the fee will not be waived or refunded.

While it is unlikely that there will be need in regard to the instant petition under 37 C.F.R. §1.47, should in fact it be required, further correspondence with respect to this matter should be addressed as follows:


By mail: Commissioner for Patents¹
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
 ATTN.: Office of Petitions

¹ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
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Office of Petitions